IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

Crl.MC.No. 3749 of 2007()

CC.480/2005 of JUDL.MAGISTRATE OF FIRST CLASS COURT, ALATHUR

.....

PETITIONER/ACCISED -1:

SELVARAJ,
S/O.PARAMESWARAN, AGED 32 YEARS,
THENKURUSSI, PALAKKAD.

BY ADV. SRI.K.ANAND

RESPONDENT/STATE:

---

1. STATE OF KERALA, REPRESENTED
BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,
ERNAKULAM-31.

2. SUB INSPECTOR OF POLICE
ALATHUR POLICE STATION.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 14/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3749 of 2007

Dated this the 14th day of December 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 498A read with 34 I.P.C. Cognizance has been taken on the basis of a final report submitted by the police. The petitioner did appear and get himself enlarged on bail. But subsequently the petitioner has not been able to appear. Consequently coercive processes have been issued against the petitioner by the learned Magistrate. The petitioner finds such processes chasing him.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007